

## Message Text

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ACTION EB-07

INFO OCT-01 AF-08 ISO-00 L-03 TRSE-00 COME-00 CIAE-00

INR-07 NSAE-00 OPIC-03 INT-05 /034 W

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R 101435Z SEP 76

FM AMEMBASSY NAIROBI

TO SECSTATE WASHDC 2424

LIMITED OFFICIAL USE NAIROBI 9794

E.O. 11652: N/A

TAGS: EINV, KE

SUBJECT: SAUL CLAIM

REF: (A) STATE 220620, (B) NAIROBI 8224

1. UPON RECEIPT REF A, EMBOFF DISCUSSED CURRENT STATUS  
SAUL'S CLAIM WITH MICHAEL ARONSON, SAUL'S LAWYER.

2. ARONSON SAID THAT ON SAUL'S INSTRUCTIONS HE HAD  
FLOATED JOINT-VENTURE PROPOSAL DESCRIBED PARA 5  
REF B, WITH GOK. TO HIS SURPRISE, GOK DID NOT SHOOT  
PROPOSAL DOWN OUT OF HAND AND IS ACTIVELY PURSUING IT.  
THOUGH GOK'S ULTIMATE ACCEPTANCE OF PROPOSAL IS STILL  
FAR FROM CERTAIN, SIGNALS ARE SOMEWHAT PROMISING, ARONSON  
SAID. HE IS, IN FACT, PUZZLED BY WHAT HE DESCRIBED AS  
SUDDEN SHIFT IN GOK ATTITUDE. INTEREST IN SOLUTION SEEMED  
EVIDENT TO ARONSON IN REMARKS BY PERMSEC OMINO AT  
MINISTRY NATURAL RESOURCES, ATTORNEY GENERAL NJONJO,  
AND PERM SEC KARIITHI OF PRESIDENT'S OFFICE.

3. FOLLOWING IS SUMMARY OF PROPOSAL WHICH ELICITED  
GUARDEDLY FAVORABLE RESPONSE: AMERICAN CORPORATION FORMED BY  
SAUL WOULD ENTER JOINT VENTURE WITH KENYAN PARTNERS.  
LATTER COULD BE PRIVATE OR PARASTATAL ENTITY SUCH AS INDUSTRIAL  
AND COMMERCIAL DEVELOPMENT CORPORATION (ICDC).  
ARONSON SUGGESTED TO OMINO THAT AMERICAN CORPORATION  
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MIGHT HOLD 51 PERCENT EQUITY TO BE ELIGIBLE FOR OPIC

INSURANCE (COMMENT: EMBOFF POINTED OUT THAT MAJORITY EQUITY BY U.S. PARTNER IS NOT NECESSARY FOR OPIC INSURANCE BUT THAT OPIC HAS BEEN GENERALLY NOT TOO INTERESTED IN MINING VENTURES.)

4. GOK WOULD MAKE "DOWN-PAYMENT" OF 2.3 MILLION SHILLINGS (DOLS 280,000) AGAINST SAUL'S CLAIM. AFTER START-UP, ROYALTIES EQUIVALENT TO DOLS 1.8 MILLION WOULD BE PAID OUT OF RECEIPTS TO GOK. GOK WOULD DEDUCT MONEY PAID TO SAUL (DOWN-PAYMENT) AND ASSIGN REMAINDER TO HIM AS COMPENSATION IN FULL FOR HIS CLAIM. MONEY WOULD THUS ESCAPE TAXATION. PRESUMPTIVE TAX -- I.E. TAX WHICH WOULD NORMALLY HAVE BEEN PAID -- WOULD BRING SAUL'S TOTAL COMPENSATION TO DOLS 3.6 MILLION, WHICH WAS SUM SAUL CONSIDERED ADEQUATE. ABILITY TO REMIT WOULD BE GUARANTEED BY GOK.

5. MILLER WOULD COME TO KENYA TO MANAGE MINE. TECHNICAL EXPERTS WOULD BE GUARANTEED WORK PERMITS. BEFORE ARRANGEMENT CONSUMMATED, SAUL WOULD VISIT SITE TO VERIFY WHETHER MINE HAD BEEN PLUNDERED AFTER HIS DEPARTURE, MAKING ARRANGEMENT VALUELESS. AFTER OPERATIONS BEGIN, SAUL COULD VISIT KENYA OCCASIONALLY TO VERIFY PROGRESS AND GIVE ADVICE.

6. UPON PAYING DOLS 50,000 INTO KENYA FOR COSTS AND TAXES, SAUL COULD EXPORT 24 TONS UNSORTED ORE HE NOW REPORTEDLY HAS HIDDEN HERE.

7. AFTER SAUL'S CLAIM PAID IN FULL, JOINT VENTURE COULD CONTINUE OPERATE "IN NORMAL MANNER."

8. COMMENT: IN REMARK WHICH WE DOUBT SAUL WOULD WANT DISSEMINATED, ARONSON SAID SAUL HAD NOT TAKEN RECOURSE TO HIGH COURT BECAUSE HE DOUBTED HE COULD COMPLETELY SUBSTANTIATE HIS CLAIM, PARTICULARLY IF MINE HAD BEEN WORKED AFTER HIS DEPARTURE. SAUL WOULD THEREFORE PREFER A SETTLEMENT WITH KENYAN EXEUTIVE.

9. EMBASSY WILL CONTINUE TO REMIND GOK OFFICIALS THAT THIS POTENTIAL IRRITANT IN BILATERAL RELATIONS IS STILL AWAITING RELIEF.

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DECON 9/10/77.

MARSHALL

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## Message Attributes

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